

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICOIN RE: **JOSE A ALBINO-OTERO**BK. CASE # **10-08923**

DEBTOR(S)

CHAPTER 13

CHAPTER 13 PAYMENT PLAN

NOTICE: - The following plan contains provisions which may significantly affect your rights. You should read this document carefully and discuss it with your attorney. When confirmed, the plan will bind the debtor and each creditor to its terms. Objections must be filed in writing with the Court and served upon the debtor(s), debtors' counsel, the Trustee and any other entity designated by the Court, at the 341 meeting of creditors or not less than twenty (20) days prior to the scheduled confirmation hearing. For post confirmation Plan Modifications, objections must be filed and notified in the same manner within twenty (20) days from its notification. • This plan does not allow claims. Any party entitled to receive disbursements from the Trustee must file a proof of claim. The Trustee will pay the allowed claims, as filed, provided for in the plan, unless disallowed or expressly modified by the Court and / or the terms of the plan. If no claim is filed, the Trustee will not pay a creditor provided for in the plan, unless ordered by the Court. If the Trustee is to make POST-PETITION REGULAR MONTHLY PAYMENTS to any Secured obligation, then a proof of claim must be filed including the following information: account number, address, due date and regular monthly payment. Secured creditor must notify any change in the monthly payment, three (3) months prior to the effective date of new payment. Those post-petition monthly payments will not exceed the life of the plan. • See the notice of commencement of case for 341 meeting date and claims bar date, the latter is the date by which a proof of claim must be filed in order to participate of the plan distribution.

1. The future earnings of the Debtor(s) are submitted to the supervision and control of the Trustee and the Debtor(s) shall make payments to the Trustee:

☒ directly ☐ by payroll deductions, as hereinafter provided in the PAYMENT PLAN SCHEDULE.

2. The Trustee shall distribute the funds so received as hereinafter provided in the DISBURSEMENT SCHEDULE.

3. The Confirmation Order will not vest property of the Estate on Debtor(s) until the Order discharging Debtor(s) is entered.

PLAN DATED: April 22, 2011☒ A MENDED PLAN DATED: April 22, 2011☐ PRE ☒ POST-CONFIRMATIONFILED BY ☒ DEBTOR ☐ TRUSTEE ☐ UNSECURED CREDITOR

I. PAYMENT PLAN SCHEDULE

\$	<u>521.06</u>	x	<u>6</u>	= \$	<u>3,126.36</u>
\$	<u>560.00</u>	x	<u>54</u>	= \$	<u>30,240.00</u>
\$	<u>0.00</u>	x	<u>0</u>	= \$	<u>0.00</u>
\$		x		= \$	
\$		x		= \$	
TOTAL =				<u>60</u>	\$ <u>33,366.36</u>

Additional Payments:

\$ _____ to be paid as a LUMP SUM
within _____ with proceeds to come from

☐ Sale of property identified as follows:

☐ Other: _____

Periodic Payments to be made other than and in addition to the above.

\$ 55,004.72 x 1 = \$ 55,004.72
To be made on: Payment Number 60 (on/or

PROPOSED PLAN BASE: \$ 33,366.36

II. ATTORNEY'S FEES

To be treated as a \$ 507 Priority, and paid before any other creditor and concurrently with the Trustee's fees, unless otherwise provided:

a. Rule 2016(b) Statement:	\$	<u>3,500.00</u>
b. Fees Paid (Pre-Petition):	(\$)	<u>2,000.00</u>
c. R 2016 Outstanding balance:	(\$)	<u>1,500.00</u>
d. Post Petition Additional Fees:	\$	<u>0.00</u>
e. Total Compensation:	\$	<u>3,500.00</u>

Signed: /s/ JOSE A ALBINO-OTERO
DEBTOR

JOINT DEBTOR

III. DISBURSEMENT SCHEDULE SEQUENCE

A. SECURED CLAIMS: ☐ Debtor represents that there are no secured claims.

☒ Secured creditors will retain their liens and shall be paid as follows:

☐ ADEQUATE PROTECTION Payments: Cr. _____ \$ 0.00

☐ Trustee will pay secured ARREARS:

Cr. _____ Cr. _____ Cr. _____

Acct. _____ Acct. _____ Acct. _____

\$ _____ \$ _____ \$ _____

☐ Trustee will pay REGULAR MONTHLY PAYMENTS:

(please refer to the above related notice, for important information about this provision)

Cr. _____ Cr. _____ Cr. _____

Acct. _____ Acct. _____ Acct. _____

Monthly Pymt.\$ _____ Monthly Pymt.\$ _____ Monthly Pymt.\$ _____

☐ Trustee will pay IN FULL Secured Claims:

Cr. _____ Cr. _____ Cr. _____

\$ _____ \$ _____ \$ _____

☒ Trustee will pay VALUE OF COLLATERAL:

Cr. LBPS as Servicer Cr. _____ Cr. _____

\$ 58,000.00 \$ _____ \$ _____

☐ Secured Creditor's interest will be insured. INSURANCE POLICY will be paid through plan:

Cr. _____ Ins. Co. _____ Premium: \$ _____

(Please indicate in "Other Provisions" the insurance coverage period)

☐ Debtor SURRENDERS COLLATERAL TO Lien Holder.

☐ Debtor will maintain REGULAR PAYMENTS DIRECTLY to:

B. PRIORITIES. The Trustee will pay \$507 priorities in accordance with the law [§1322 (a)(2)].

☐

C. UNSECURED PREFERRED: Plan ☐ Classifies ☒ Does not Classify claims

☐ Class A: ☐ Co-debtor Claims: ☐ Pay 100%/ ☐ "Pay Ahead"

☐ Class B: ☐ Other Class:

☐ Cr. _____ ☐ Cr. _____ ☐ Cr. _____

\$ _____ \$ _____ \$ _____

D. GENERAL UNSECURED NOT PREFERRED: (Case Liquidation Value = \$ 0.00)

☒ Will be paid 100% plus % Legal Interest. ☐ Will be paid Pro-Rata from any remaining funds

OTHER PROVISIONS:

ATTORNEY FOR DEBTOR: /s/ Jesus E. Batista, Esq.Phone: (407) 306-8066

Document Page 2 of 5
UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE: JOSE A ALBINO-OTERO
DEBTOR(S)

BK. CASE # 10-08923
CHAPTER 13

CHAPTER 13 – ADDITIONAL PLAN PROVISIONS

I. ATTORNEY FEE PROVISION:

1. TRUSTEE WILL PAY ATTORNEY'S FEES BEFORE ANY CLAIM AND AFTER ADMINISTRATIVE EXPENSES.

II. TAX REFUND PROVISION:

1. ANY POST PETITION INCOME TAX REFUND THAT THE DEBTOR(S) WOULD BE ENTITLED TO RECEIVE DURING THE TERM OF THE PLAN WILL BE USED TO FUND THIS PLAN. AFTER CONFIRMATION, AND WITHOUT FURTHER NOTICE, HEARING OR COURT ORDER, THE PLAN SHALL BE DEEMED MODIFIED AND THE BASE OF THE PLAN SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE AMOUNT OF EACH INCOME TAX REFUND RECEIVED.

III. CRAM-DOWN, AND ADVERSARY PROCEEDING TO VOID ALLEGED SECURED LIEN:

1. **CRAM-DOWN:** THE CHAPTER 13 PLAN TREATS THE ALLEGED SECURED CLAIM OF FANNIE MAE AS IF THE COURT VALUES SUCH A CLAIM AT THE CURRENT APPRAISED VALUE OF \$58,000.00, ACCORDINGLY GRANTING FANNIE MAE AN ALLOWED SECURED CLAIM OF \$58,000.00 AND AN ALLOWED UNSECURED CLAIM FOR THE DIFFERENCE. DEBTOR SHALL MAKE PAYMENTS OF PRINCIPAL AND INTEREST ON THE ALLOWED SECURED CLAIM OF FANNIE MAE AT AN INTEREST RATE OF 5.25% BASED ON A 30-YEAR AMORTIZATION FOR MONTHS 1 THROUGH 23 OF THIS CHAPTER 13 PLAN. THE BALANCE OF THE ALLOWED SECURED CLAIM OF FANNIE MAE SHALL BE PAID, IN FULL, IN MONTH 24 OF THIS CHAPTER 13 PLAN. DEBTOR RESERVES THE RIGHT TO REQUEST AN EXTENSION OF TIME TO COMPLY WITH THIS BALLOON PAYMENT DUE DATE IF HE IS UNABLE TO PROCURE FINANCING OR HAVE SUFFICIENT FUNDS TO SATISFY THE BALANCE OF THE ALLOWED SECURED CLAIM OF FANNIE MAE. IF THE COURT GRANTS SUCH AN EXTENSION OF TIME, THE DEBTOR SHALL CONTINUE TO MAKE PAYMENTS OF INTEREST AND PRINCIPAL, AT THE SAME RATE APPLICABLE TO MONTHS 1-23, FOR THE PERIOD OF TIME GRANTED BY THE COURT.

CRAM-DOWN PAYMENTS ARE SUBJECT TO AND CONDITION ON THE ADJUDICATION OF THE OBJECTION TO POC-3 FILED BY TRUSTEE AND JOINED BY DEBTOR. IF POC-3 IS DEEMED ALLOWED THE DEBTOR WILL SEEK AN ORDER FROM THIS COURT TO MAKE ON GOING PAYMENTS TO SECURED CREDITOR THROUGH TRUSTEE'S OFFICE.

2. **ADVERSARY PROCEEDING:** DEBTOR DOES NOT CONCEDE THAT FANNIE MAE IS IN FACT A CREDITOR OF DEBTOR OR THAT IT IS ENTITLED TO AN ALLOWED CLAIM, SECURED OR UNSECURED. TO HELP EXPEDITE THE ADJUDICATION OF THESE ISSUES, DEBTOR HEREBY INFORMS AND CONDITIONS THIS PLAN AS FOLLOWS:

- a. FORTHCOMING, DEBTOR WILL FILE AN ADVERSARY PROCEEDING SEEKING TO CLARIFY AND ADJUDICATE THE FOLLOWING:
 - i. **COUNT I: DECLARATORY ACTION SEEKING TO DETERMINE WHOM, IF ANY, IS THE SECURED CREDITOR IN THE INSTANT CASE.** BEFORE THE COURT IS AN UNENDORSED PROMISSORY NOTE PAYABLE TO THE ORDER OF GREENPOINTE MORTGAGE; FANNIE MAE HAS FILED A PROOF OF CLAIM; AND IN A FLORIDA FORECLOSURE ACTION WITH RESPECT TO THIS PROPERTY BAC HOME LOANS (BANK OF AMERICA) SOUGHT AND OBTAINED A FINAL JUDGMENT OF FORECLOSURE ALLEGING TO BE THE OWNER AND HOLDER OF THE NOTE AND MORTGAGE;
 - ii. **COUNT II: TO THE EXTENT THERE IS A SECURED CREDITOR ENTITLED TO AN ALLOWED SECURED CLAIM, THEN DEBTOR SEEKS TO VALUE SUCH CLAIM PURSUANT TO SECTION 506 OF THE CODE.** TO THIS MOMENT, NO ONE HAS OBJECTED TO THE VALUATION OF THE SUBJECT REALTY AT \$58,000.00. DEBTOR HAS TWICE FILED WITH THIS COURT A COPY OF A RECENT APPRAISAL OF THE REALTY AND NO OBJECTIONS HAVE BEEN RAISED.

IF THE COURT DETERMINES THERE IS IN FACT AN ALLOWED SECURED CLAIM IN THIS CASE, AND THE CLAIM IS VALUED AT \$58,000.00, THEN THE PLAN THAT IS BEING SUBMITTED HERewith WILL PAY THE SECURED CLAIM OF \$58,000.00 AS SET FORTH ABOVE AND TREAT ANY REAMING CLAIM AS AN ALLOWED UNSECURED CLAIM.

IV. SUMMARY

- 1. FOR CLARIFICATION PURPOSES, DEBTOR HEREBY ATTACHES EXHIBIT "A" A SUMMARY OF THE PAYMENTS CONTEMPLATED BY THIS CHAPTER 13 PLAN.

APR 22, 2011
12:33PM**Best Case Bankruptcy**
Chapter 13 Plan Summary Report*Albino Otero, Jose A*

Payments into Plan

Monthly Payment	Number of Months
521.06	6
560.00	54
Lumpsum Payment	In Month Number

Summary of Payout

Attorney & Filing Fee	1,500.00
Trustee's Fee	3,336.66
Principal to Creditors	20,483.03
Interest to Creditors	0.00
Over Payments	8,046.67
Total Plan Payments	33,366.36

60 Month Plan 100% for unsecured, non-priority**Plan Summary by Creditor Classification**

Code	Classification	Total Claims	Total Payout	Start	End
ATTY	ATTY-Attorney Fees	1,500.00	0.00	1	60
SFP	SFP-Secured, fixed payment	58,000.00	19,800.00	1	60
UGEN	UGEN-Unsecured General Nonpriority	2,183.03	2,183.03	1	60
NOT	NOT-Not In Plan	148,591.00	0.00	60	60

Liquidation Summary

Description	Amount
Total Property Value	59,835.00
Less:	
Schedule D. Secured Claims	58,000.00
Schedule E. Priority Claims	0.00
Schedule C. Exemptions	1,835.00
Administrative Costs	0.00
Available to General Unsecured	0.00
Total General Unsecured	150,774.03
Percent Distribution	0.0%
Details:	
Property from Schedule A.	58,000.00
Property from Schedule B.	1,835.00
Unsecured from Schedule D.	147,791.00
Includes Avoided Liens	0.00
Unsecured from Schedule E.	0.00
Unsecured from Schedule F.	2,983.03

Label Matrix for local noticing
0104-3
Case 10-08923-BKT13
District of Puerto Rico
Old San Juan
Fri Apr 22 10:53:25 AST 2011

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